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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
09/903,431	07/10/2001	Peter Gailer	W&W-001	8926

7590 12/09/2004

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111 North Market Street  
San Jose, CA 95113

EXAMINER
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VITAL, PIERRE M

ART UNIT	PAPER NUMBER
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2188

DATE MAILED: 12/09/2004

Please find below and/or attached an Office communication concerning this application or proceeding.

# Office Action Summary

Application No.

09/903,431

Applicant(s)

GAILER ET AL.

Examiner

Pierre M. Vital

Art Unit

2188

-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --

## Period for Reply

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If the period for reply specified above is less than thirty (30) days, a reply within the statutory minimum of thirty (30) days will be considered timely.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133). Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

## Status

- 1) ☒ Responsive to communication(s) filed on 10 July 2001.
- 2a) ☐ This action is **FINAL**. 2b) ☒ This action is non-final.
- 3) ☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

## Disposition of Claims

- 4) ☒ Claim(s) 1-55 is/are pending in the application.
- 4a) Of the above claim(s) \_\_\_\_\_ is/are withdrawn from consideration.
- 5) ☐ Claim(s) \_\_\_\_\_ is/are allowed.
- 6) ☒ Claim(s) 1-29 is/are rejected.
- 7) ☒ Claim(s) 30-55 is/are objected to.
- 8) ☐ Claim(s) \_\_\_\_\_ are subject to restriction and/or election requirement.

## Application Papers

- 9) ☐ The specification is objected to by the Examiner.
- 10) ☒ The drawing(s) filed on 10 July 2001 is/are: a) ☒ accepted or b) ☐ objected to by the Examiner.  
Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).  
Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).
- 11) ☐ The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

## Priority under 35 U.S.C. § 119

- 12) ☒ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
- a) ☐ All b) ☐ Some \* c) ☒ None of:
1. ☒ Certified copies of the priority documents have been received.
2. ☐ Certified copies of the priority documents have been received in Application No. \_\_\_\_\_.
3. ☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).

\* See the attached detailed Office action for a list of the certified copies not received.

## Attachment(s)

- 1) ☒ Notice of References Cited (PTO-892)
- 2) ☐ Notice of Draftsperson's Patent Drawing Review (PTO-948)
- 3) ☐ Information Disclosure Statement(s) (PTO-1449 or PTO/SB/08)  
Paper No(s)/Mail Date \_\_\_\_\_.
- 4) ☐ Interview Summary (PTO-413)  
Paper No(s)/Mail Date. \_\_\_\_\_.
- 5) ☐ Notice of Informal Patent Application (PTO-152)
- 6) ☐ Other: \_\_\_\_\_.

### **DETAILED ACTION**

1. This Office Action is in response to Application No. 09/903,431 filed July 10, 2001. Claims 1-55 are pending in this application.
2. The specification and the claims have been examined with the results that follow.

### ***Priority***

3. Acknowledgment is made of applicant's claim for foreign priority based on an application filed in Japan on January 11, 1999. It is noted, however, that applicant has not filed a certified copy of the 19900636.9 application as required by 35 U.S.C. 119(b).

### ***Claim Objections***

4. Claim 30 is objected to because of the following informalities:  
  
In claim 30, line 9, after "transmission", please include --;--.  
  
Claims 31-55 are objected as being directly or indirectly dependent on claim 30.  
  
Appropriate correction is required.

### ***Claim Rejections - 35 USC § 112***

5. The following is a quotation of the second paragraph of 35 U.S.C. 112:  
  
The specification shall conclude with one or more claims particularly pointing out and distinctly claiming the subject matter which the applicant regards as his invention.
6. Claims 1-29 are rejected under 35 U.S.C. 112, second paragraph, as being indefinite for failing to particularly point out and distinctly claim the subject matter which applicant regards as the invention.

(a) Claim 1 recites the limitation "the determined prespecified parameters" in lines 11, 12 and 17. There is insufficient antecedent basis for this limitation in the claim.

There is no mention of determination of prespecified parameters in the claim.

(b) Claim 3 recites the limitation "the determined prespecified parameters" in lines 5-6. There is insufficient antecedent basis for this limitation in the claim. There is no mention of determination of prespecified parameters in the claim.

(c) Claim 26 recites the limitation "the determined prespecified parameters" in lines 2-3. There is insufficient antecedent basis for this limitation in the claim. There is no mention of determination of prespecified parameters in the claim.

(d) Claim 1 recites the limitation "the data storage means shift data" in line 15. There is insufficient antecedent basis for this limitation in the claim. There is no mention of data being shifted in the claim.

(e) Claims 2-29 are rejected as being directly or indirectly dependent on claim 1.

Appropriate correction is required.

#### ***Allowable Subject Matter***

7. Claims 1-29 would be allowable if claims 1, 3 and 26 were rewritten or amended to overcome the rejection(s) under 35 U.S.C. 112, 2nd paragraph, set forth in this Office action.

8. Claims 30-55 would be allowable if claim 30 was rewritten or amended to overcome the objection(s), set forth in this Office action.

9. The following is a statement of reasons for the indication of allowable subject matter:

The prior art of record does not teach or suggest "accessing the stored data by at least one computer unit (CL) via data transmission means (N), with prespecified parameters of the data transmission between the data storage means (C) and the computer unit (CL) being determined, the data being stored in a redundant manner in at least two of the at least two data storage means (C) as a function of the determined parameters of the data transmission, the access to the data being effected as a function of the determined parameters of the data transmission; detecting prespecified parameters for data transmissions between the data storage means (C); and shifting redundantly stored data independent of an access of the computer unit (CL) to the data as a function of the determined parameters of data transmissions between the data storage means" in combination with the other elements set forth in the claimed invention.

### ***Conclusion***

10. The prior art made of record and not relied upon is considered pertinent to applicant's disclosure. Applicant is required under 37 C.F.R. § 1.111(c) to consider these references fully when responding to this action. The documents cited therein teach redundant data storage.

11. The examiner requests, in response to this Office action, any reference(s) known to qualify as prior art under 35 U.S.C. sections 102 or 103 with respect to the invention as defined by the independent and dependent claims. That is, any prior art (including any products for sale) similar to the claimed invention that could reasonably be used in a 102 or 103 rejection. This request does not require applicant to perform a search. This request is not intended to interfere with or go beyond that **required** under 37 C.F.R. 1.56 or 1.105.

The request may be fulfilled by asking the attorney(s) of record handling prosecution and the inventors)/assignee for references qualifying as prior art. A simple statement that the query has been made and no prior art found is sufficient to fulfill the request. Otherwise, the fee and certification requirements of 37 CFR section 1.97 are waived for those documents submitted in reply to this request. This waiver extends only to those documents within the scope of this request that are included in the application's first complete communication responding to this requirement. Any supplemental replies subsequent to the first communication responding to this request and any information disclosures beyond the scope of this are subject to the fee and certification requirements of 37 CFR section 1.97.

In the event prior art documentation is submitted, a discussion of relevant passages, figs., etc., with respect to the claims is requested. The examiner is looking for specific references to 102/103 prior art that identify independent and dependent claim limitations. Since applicant is most knowledgeable of the present invention and

submitted art, his/her discussion of the reference(s) with respect to the instant claims is essential. **A response to this inquiry is greatly appreciated.**

12. The examiner also requests, in response to this Office action, support be shown for language added to any original claims on amendment and any new claims. That is, indicate support for newly added claim language by specifically pointing to page(s) and line no(s) in the specification and/or drawing figure(s). This will assist the examiner in prosecuting the application.

13. When responding to this office action, Applicant is advised to clearly point out the patentable novelty which he or she thinks the claims present, in view of the state of the art disclosed by the references cited or the objections made. He or she must also show how the amendments avoid such references or objections See 37 CFR 1.111(c).

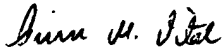
14. Any inquiry concerning this communication or earlier communications from the examiner should be directed to Pierre M. Vital whose telephone number is (571) 272-4215. The examiner can normally be reached on 8:30 am - 6:00 pm, alternate Fridays off.

If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, Mano Padmanabhan can be reached on (571) 272-4210. The fax phone number for the organization where this application or proceeding is assigned is 703-872-9306.

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Information regarding the status of an application may be obtained from the Patent Application Information Retrieval (PAIR) system. Status information for published applications may be obtained from either Private PAIR or Public PAIR. Status information for unpublished applications is available through Private PAIR only. For more information about the PAIR system, see <http://pair-direct.uspto.gov>. Should you have questions on access to the Private PAIR system, contact the Electronic Business Center (EBC) at 866-217-9197 (toll-free).

December 6, 2004

  
Pierre M. Vital  
Primary Examiner  
Art Unit 2188